

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

JAN - 4 2015

Clerk, U.S. District Court  
District Of Montana  
Billings

TERRY KERR,

Plaintiff,

vs.

ST. VINCENT HEALTHCARE,

Defendant.

CV 15-29-BLG-SPW-JCL

OPINION and ORDER

Before the Court are the Findings and Recommendations issued by United States Magistrate Judge Jeremiah Lynch on October 21, 2015. In the Findings and Recommendations, Judge Lynch recommends that this Court grant Defendant St. Vincent Healthcare's ("St. Vincent") summary judgment motion and dismiss Plaintiff Terry Kerr's claims for assault and battery. Judge Lynch also recommends that this Court deny St. Vincent's Motion for Judgment on the Pleadings and Motion for Preliminary Injunction.

After the Clerk of Court inadvertently failed to mail the Findings and Recommendations to Kerr, the Court issued an Order on November 16 that allowed Kerr until December 3, 2015 to file objections to the Findings and Recommendations. (Doc. 42). On November 23, 2015, Kerr filed an "Interim Status Report." (Doc. 43). While Kerr referred to the motions filed by St. Vincent

as “a crock of bull,” Kerr did not object to the Findings and Recommendations. On December 14, Kerr filed a Motion to Allow (sic) Plaintiff to File Motion for Reconsideration (Doc. 48) and a Motion for Reconsideration (Doc. 49). The Court construes these documents as written objections to Judge Lynch’s Findings and Recommendations. Since they were received after December 3, the Court will not consider them.

When neither party files valid written objections, this Court still reviews Judge Lynch’s conclusions for clear error. Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Lynch committed clear error.

Accordingly, IT IS HEREBY ORDERED:

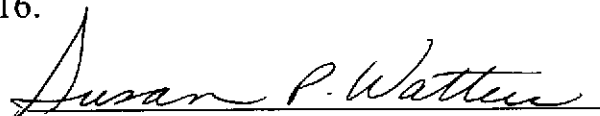
1. Judge Lynch’s Findings and Recommendations (Doc. 41) are ADOPTED IN FULL.

2. St. Vincent’s Motion for Summary Judgment (Doc. 33) is GRANTED. Kerr’s claims for assault and battery are DISMISSED. As Judge Lynch noted, Kerr’s claim for defamation remains for resolution.

3. St. Vincent’s Motion for Judgment on the Pleadings (Doc. 16) is DENIED as moot.

4. St. Vincent's Motion for Preliminary Injunction (Doc. 29) is DENIED.

DATED this 4<sup>th</sup> day of January, 2016.

A handwritten signature in cursive script that reads "Susan P. Watters". The signature is written in black ink and is positioned above a horizontal line.

SUSAN P. WATTERS  
United States District Judge